

**IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF MISSISSIPPI**

HUMAN RIGHTS DEFENSE CENTER,
a not-for-profit corporation,

Plaintiff,

v.

(1) FORREST COUNTY, MISSISSIPPI;

(2) BILLY MCGEE, Sheriff,
individually and in his official capacity; and

(3) JOHN AND JANE DOES 1-10, Staff,
individually and in their official capacities,

Defendants.

Case No.: 2:18-cv-00184-KS-MTP

MOTION FOR PRELIMINARY INJUNCTION

NOW COMES Plaintiff, Human Rights Defense Center (“HRDC”), pursuant to Federal Rule of Civil Procedure 65, and respectfully moves this Court for a preliminary injunction enjoining Defendants from unconstitutionally censoring books, magazines, and other mail sent to prisoners at the Forrest County Jail (the “Jail”), denying due process protections, and preventing HRDC from sending these items to prisoners at the Jail:

1. Since August 2018, HRDC can identify at least seventy-seven (77) items of mail sent to prisoners held in the Jail which were censored and never delivered to the intended prisoner-recipient by Defendants. This includes monthly issues of HRDC’s magazines, *Prison Legal News* and *Criminal Legal News*, as well as HRDC’s books and lettered mail. These items were sent back to HRDC’s offices marked “Return to Sender”. Defendants failed to provide HRDC with any due process notice or with any opportunity to challenge the rejection decisions.

2. Defendants have rejected these items pursuant to an unconstitutional mail policy that does not allow prisoners to receive publications and other correspondence, other than Bibles and some Christian literature, while in custody at the Jail.

3. Defendants have not provided HRDC with any notice of the censorship of its mail, nor have they provided HRDC with any opportunity to challenge Defendants' censorship decisions.

4. HRDC and other senders of publications have a constitutionally protected liberty interest in communicating with incarcerated individuals, a right clearly established under existing case law.

5. Injunctive relief is necessary to prevent the Defendants from violating the fundamental constitutional rights of HRDC and other publishers. Defendants' policy violates the Free Speech and Establishment Clauses of the First Amendment to the United States Constitution, and the Due Process Clause of Fourteenth Amendment to the United States Constitution.

6. HRDC and other publishers have been, and will continue to be subjected to irreparable harm for which there is no adequate remedy at law unless and until this Court provides the injunctive relief requested.

7. All essential elements for the issuance of a preliminary injunction are present in this case: 1) the existence of a substantial threat that HRDC will suffer irreparable injury if the injunction is not granted; 2) a substantial likelihood that HRDC will prevail on the merits; 3) the threatened injury to HRDC outweighs any threat of harm to the Defendants; and 4) granting the preliminary injunction will serve the public interest.

WHEREFORE, HRDC respectfully requests that this Court enter a preliminary injunction enjoining Defendants from unconstitutionally censoring HRDC's publications and other correspondence, and ordering Defendants to provide due process of law to HRDC when they censor HRDC's mail. A Memorandum in Support of Motion for Preliminary Injunction is filed herewith.

Respectfully Submitted,

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Counsel for HRDC

CERTIFICATE OF SERVICE

I, Masimba M. Mutamba, one of Plaintiff's attorneys, certify that I caused a copy of the foregoing Motion for Preliminary Injunction to be served by email and mail upon the following on November 6, 2018:

Sheriff Billy McGee
55 Arena Drive
Hattiesburg, MS 39401

David Miller, Board Attorney
Forrest County Board of Supervisors
dmiller@co.forrest.ms.us

/s/ Masimba Mutamba
Masimba M. Mutamba